

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREW PERRONG, individually and on
behalf of a class of individuals similarly
situated.

Plaintiff

vs.

VICTORY PHONES LLC

Defendant.

Case No. 2:20-cv-05317

**DEFENDANT VICTORY PHONES LLC'S SUPPLEMENTAL RESPONSE TO
PLAINTIFF ANDREW PERRONG'S REVISED FIRST SET OF DISCOVERY
REQUESTS**

Victory Phones LLC ("Victory Phones") responds to plaintiff's Revised First Set of Discovery Requests as set forth below.

GENERAL OBJECTIONS

1. Victory Phones objects to each definition, instruction, and request, to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, immunity or any other applicable privilege.

2. Victory Phones objects to Plaintiff's instructions to the extent that they seek to impose an obligation to respond or produce that is different from or greater than what is required by the Federal Rules of Civil Procedure, Local Rules of Court, or any Order of the Court applicable to discovery. Victory Phones will comply with all applicable rules and orders as described above, but does not agree that any further requirements set forth in Plaintiff's instructions are applicable.

3. Victory Phones objects to Plaintiff's definitions to the extent that they seek to impose an obligation to respond or produce that is different from or greater than what is required by the Federal Rules of Civil Procedure, Local Rules of Court, or any Order of the Court applicable to discovery. Victory Phones will comply with all applicable rules and orders as described above, but does not agree that any further requirements set forth in Plaintiff's definitions are applicable.

4. Victory Phones objects to Plaintiff's proposed time period as overly broad and disproportionate to the needs of this case. The relevant time period is the time period of the calling campaign at issue in Plaintiff's claim.

INTERROGATORIES

In further response to Interrogatories 5, 6, 7, 8, and 11, and subject to its earlier objections to each such Interrogatory, Victory Phones, through Dave Dishaw, states as follows:

Victory Phones conducts political and public opinion research for candidates, candidate committees, political parties, interest groups, and other clients. What counsel in this matter has referred to as a "calling campaign," Victory Phones refers to as a "project." During the period at issue in this matter (from October 2016 through the present), Victory Phones has undertaken thousands of projects on behalf of over 800 different clients.

Victory Phones uses a number of proprietary systems and processes. As has been previously disclosed, during the period at issue, it used two different systems for placing calls. One of those systems (for identification purposes here, "System A") was taken offline in early 2020. In order to obtain data from System A, Victory Phones estimates it would take at least one week of developer work in addition to support from Victory Phones' staff.

The other system (for identification purposes here, "System B") has been used since August 2019. System B has been used for approximately 2,400 projects between August 2019 and the present.

Pursuant to an understanding with Plaintiff's Counsel, information in this supplemental response will be limited to "System B."

From the inception of the project, Victory Phones is notified, calendars are estimated, and the project parameters are determined (sample size, field dates, call list, etc.) Often these are

estimates only, and real world fieldwork of a political campaign, for example, requires adjustments to the estimates. Victory Phones will typically work with a selection of voice talent – or the client may provide their own – and the project audio will be recorded. Then, the list of potential numbers to be called will be obtained, either from the client directly or a third party list provider.

Irrespective of the source, Victory Phones procures a secondary cell suppression which checks for compliance with the TCPA even though it is anticipated that the client or third party list provider checked the list for compliance. Victory Phones uses a proprietary software tool that checks the list of potential called parties against a commercially available service to determine which, if any, potentially called numbers may violate the TCPA were they to be called. Once that process is complete, the net “clean” file is loaded into the Victory Phones calling system where the calls are scheduled to terminate during appropriate local hours, via downstream telephony providers and their secondary local exchange carriers (“LECs”).

The signaling from the LECs is then sent back upstream, where it is recorded to a database Victory Phones maintains which sorts and stores the responses and call results from many different projects. At this point, each project is stored on a local database and called to the main database when the projects are “cached.” Over time, the audio, lists, and response data grows extremely large and needs to be stored elsewhere. Upon completion of each project, the result response data is exported and shared with the client.

While projects may have some attributes in common (for example, the particular client, the outgoing Caller ID, and some questions relating to demographic information), in reality each project, including the project relating to the call at issue, is unique, including in the following ways: Length of script, specific election races being measured, the way in which those questions are asked (bio and message reads, straight horse race, etc), the actual audio/questions asked, which can and does change between projects, and often even “within” projects if they are done over a longer period of time (tracking or model inputs), the intended recipient pool (specific age groups, stratified demographic or geographic groups, etc), the purpose of the project (whether testing or delivering political messaging as part of same, or Get Out the Vote (“GOTV”), etc), and the scope.

Source of Data. The source of the data used for each project may vary. In some instances, such as the call at issue, it may come from a client, while in other instances it may come from a third party list provider.

Outbound Caller ID. Some projects, such as project in which the call at issue was made, may use one outbound Caller ID, while other may use more than one outbound Caller ID.

Information Being Sent and Received. Some projects may ask all respondents the same questions; other projects may ask different tranches of respondents different questions – or no questions at all, depending on the purpose. Depending on the source of the data, the project’s purpose, and other factors, a project may contain dozens of different fields of data unique to that project, and potentially dozens more based on the original list source. In the case of the calls Mr. Perrong received, the call he received on September 30 (which he did not answer) was a different

set of questions than the one he received on October 20 (which he did, and completed the survey). Other projects for this client used different Caller IDs and utilized questions different than those received by Mr. Perrong. These were generally changed at various intervals, so that even in the same jurisdiction, it's possible that both the Caller ID and the project questions were unique – and different than the caller ID of the call placed to Mr. Perrong and the questions Mr. Perrong answered..

Duration of Project. Some projects are ongoing (over time), while other projects are one and done. The call Mr. Perrong answered was for unique project within the State of Pennsylvania, and unique from other projects run in other states at or during this time. The projects in Pennsylvania during this timeframe for this client used the same Caller ID as the survey Mr. Perrong took on October 20, 2020, but were different in scope and duration and content, generally, week over week for several weeks.

Purpose of Project. Different projects have different purposes:

- Some projects are for political persuasion.
- Some projects are for political data gathering.
- Some projects are for political fundraising.
- Some projects are for Get Out The Vote for political campaigns.

This particular project to which Mr. Perrong responded was for a client that typically did only political survey research work. Some of the projects for this client were one and done, some were on-going (rolling political survey research work). One and done projects typically use the same caller ID, although not always. Most on-going projects – projects that change questions or scope, or are carried over multiple weeks/months – change Caller ID between weeks, although not all the time.

One of the requests made by Plaintiff's Counsel is the number of pre-recorded calls made using the same Caller ID as the subject call in this matter using System B. In order to obtain this information, Victory Phones would have to audit each project since System B came online to determine which used the applicable Caller ID. As indicated above, some projects used more than one Caller ID. Victory Phones would then have to extrapolate each call made in each project to determine how many used this particular Caller ID. At the present time, Victory Phones estimates – and this is a very rough estimate – that approximately 60-80 projects utilized this Caller ID, across approximately 500,000 calls. Victory Phones anticipates that a more precise computation would take approximately 300 hours at a rate of \$72 per hour to determine. Should Plaintiff's Counsel wish to obtain this information, it is anticipated that the cost would be at least \$30,000.

One of the requests made by Plaintiff's Counsel is the number of calls made on behalf of the client on behalf of whom Victory Phones placed the subject call of this litigation. Victory Phones began providing services to this client in approximately October 2017, and has conducted

approximately 1,000 projects on this client's behalf (using both System A and System B). In order to obtain the exact information for calls made using System B, Victory Phones would have to audit each project conducted for this client since System B came online to determine how many calls were in each project. Victory Phones estimates – and this is a very rough estimate – that approximately 700 projects were done in System B for this client and that this would equate to approximately 4,800,000 calls, though this number may be substantially lower or substantially higher. Victory Phones anticipates that to adequately audit and produce exact information would take 500 hours at a rate of \$72 per hour. Should Plaintiff's Counsel wish to obtain this information, it is anticipated that the cost would be at least \$43,000.

One of the requests made by Plaintiff's Counsel is the number of pre-recorded calls made in which "Public Opinion Research" was identified as the party conducting the survey. It is difficult, if not impossible, to accurately estimate this response. In order to obtain the information necessary to respond to this inquiry, Victory Phones would have to examine the audio for each project since System B came online to determine which projects identified Public Opinion Research as the party conducting the survey. Victory Phones anticipates that such information would take 800 hours at a rate of \$72 per hour to determine. Should Plaintiff's Counsel wish to obtain this information, it is anticipated that the cost would be at least \$65,000.

Respectfully submitted,

By: /s/ Randall P. Hsia

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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2022, I served the foregoing on counsel of record via electronic mail.

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